

TRANSF

**U.S. District Court  
United States District Court District Of Montana (Billings)  
CRIMINAL DOCKET FOR CASE #: 1:08-cr-00098-RFC All Defendants**

Case title: USA v. Goldman

Date Filed: 08/21/2008

Date Terminated: 04/24/2009

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Assigned to: Judge Richard F. Cebull

**Defendant (1)**

**Barry Goldman**

*dba Torture Portal, dba Masters of  
Pain, dba Bacchus Studios  
TERMINATED: 04/24/2009*

represented by **David A. Merchant , II**  
FEDERAL DEFENDERS OF  
MONTANA - BILLINGS BRANCH  
2702 Montana Avenue  
PO Box 1778  
Billings , MT 59103-1778  
406-259-2459  
Fax: 406-259-2569  
Email: david\_merchant@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or  
Community Defender Appointment*

**Pending Counts**

None

**Highest Offense Level (Opening)**

None

**Terminated Counts**

18:1461.F MAILING OBSCENE  
MATTER and 18:1467 FORFEITURE  
(1-3)

**Disposition**

The case has been transferred to the  
District of New Jersey pursuant to the  
order filed on 4/24/09 document 28. On  
5/27/09 ORDER TO DISMISS  
WITHOUT PREJUDICE FILED.

**Highest Offense Level (Terminated)**

Felony

**Complaints**

None

**Disposition**

**Plaintiff**

USA

represented by **Marcia Hurd**  
 U.S. ATTORNEYS OFFICE  
 P.O. Box 1478  
 Billings , MT 59103-1478  
 406-247-4631  
 Fax: 657-6058  
 Email: marcia.hurd@usdoj.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Brent D. Ward**  
 U.S. DEPARTMENT OF JUSTICE  
 Obscenity Prosecution Task Force  
 1301 New York Avenue NW  
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 202-514-6017  
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*Designation: Retained*

**Kenneth F. Whitted**  
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*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

Date Filed	#	Docket Text
08/21/2008	<u>1</u>	INDICTMENT as to Barry Goldman (1) count(s) 1-3. (AMC, ) (Entered: 08/22/2008)
09/10/2008	<u>2</u>	Summons Returned Executed on 9/3/08 via certified mail, return receipt, as to Barry Goldman (CAA, ) (Entered: 09/10/2008)

09/16/2008		Case unsealed as to Barry Goldman (POC, ) (Entered: 09/16/2008)
09/16/2008	<u>3</u>	Minute Entry for proceedings held before Magistrate Carolyn S Ostby: Initial Appearance and Arraignment as to Barry Goldman (1) held on 9/16/2008 on Counts 1-3. Defendant present and NOT in custody appearing with Mark Werner for today only; Marcia Hurd appearing for USA. Defendant files financial affidavit, and the Court appoints David A. Merchant, II, and the Federal Defenders of MT for all subsequent proceedings. Plea of Not Guilty entered by Barry Goldman (1) on Counts 1-3. The Court continues Defendant's release on his own recognizance. (Tape #FTR Gold; L/C James Conwell.) (Notified RFC chambers re schedo.) (POC, ) (Entered: 09/16/2008)
09/16/2008	<u>4</u>	ORDER APPOINTING DAVID A. MERCHANT, II, and the FEDERAL DEFENDERS of MT as to Barry Goldman. Signed by Magistrate Carolyn S Ostby on 9/16/2008. (POC, ) (Entered: 09/16/2008)
09/16/2008	<u>5</u>	CJA 23 Financial Affidavit by Barry Goldman (POC, ) (Entered: 09/16/2008)
09/16/2008	<u>6</u>	ORDER Setting Conditions of Release. Signed by Magistrate Carolyn S Ostby on 9/16/2008. (POC, ) (Entered: 09/16/2008)
09/18/2008	<u>8</u>	SCHEDULING ORDER as to Barry Goldman: Discovery due by 10/1/2008. Pretrial Motions due by 10/21/2008. Any Motion for COP due by 11/7/08. Jury Instructions, Trial Briefs and Notebooks due by 11/10/08. Pretrial Conference set for 11/17/2008 08:00 AM in Chambers. Jury Trial set for 11/17/2008 09:00 AM in Billings, MT before Judge Richard F. Cebull. Signed by Judge Richard F. Cebull on 9/18/2008. (EMA) (Entered: 09/18/2008)
09/23/2008	<u>9</u>	Notice of Discovery Request by Barry Goldman (Merchant, David) (Entered: 09/23/2008)
09/26/2008	<u>10</u>	NOTICE of Trial Days by USA as to Barry Goldman (Hurd, Marcia) (Entered: 09/26/2008)
10/02/2008		Terminate Deadlines CLEANUP PAST DDLS (Discovery deadline 10/1/08) as to Barry Goldman. (AMC, ) (Entered: 10/02/2008)
10/24/2008		Terminate Deadlines CLEANUP PAST DDLS (Motions deadline 10/21/08) as to Barry Goldman. (AMC, ) (Entered: 10/24/2008)
10/31/2008	<u>11</u>	Second MOTION to Continue <i>Trial</i> by Barry Goldman. (Attachments: # <u>1</u> Text of Proposed Order) (Merchant, David) (Entered: 10/31/2008)
11/03/2008		Remark: In regards to document <u>11</u> Motion to Continue the filer inadvertently put the incorrect date of when the trial will be held in the body of the document. The text of "Second" Motion was also chosen when filing. After reviewing the case this is not the second motion, it is the first. The filer does NOT have to refile, for all future filings please review all documents before filing. RFC Chambers has been notified and will not require the filer to refile. (AMC, ) (Entered: 11/03/2008)
11/04/2008	<u>12</u>	ORDER TO CONTINUE - Ends of Justice as to Barry Goldman, Time excluded from 11/17/08 until 3/9/09. SCHEDULING ORDER: Pretrial Motions due by 1/5/2009. Any Motion for COP with Plea Agreement due by

		2/9/2009. Jury Instructions, Trial Briefs and Notebooks due by 3/2/09. Pretrial Conference set for 3/9/2009 08:00 AM in Chambers. Jury Trial reset for 3/9/2009 09:00 AM in Billings, MT before Judge Richard F. Cebull. <u>11</u> First MOTION to Continue Trial filed by Defendant Granted. Signed by Judge Richard F. Cebull on 11/4/2008. (EMA) (Entered: 11/04/2008)
01/08/2009		Terminate Deadlines CLEANUP PAST DDLS (Motions deadline 1/5/09) as to Barry Goldman. (AMC, ) (Entered: 01/08/2009)
01/29/2009	<u>13</u>	MOTION for Leave to File <i>Out of Time</i> by Barry Goldman. (Merchant, David) (Entered: 01/29/2009)
01/29/2009	<u>14</u>	MOTION to Change Venue by Barry Goldman. (Merchant, David) (Entered: 01/29/2009)
01/29/2009	<u>15</u>	BRIEF/MEMORANDUM in Support by Barry Goldman re <u>14</u> MOTION to Change Venue (Merchant, David) (Entered: 01/29/2009)
02/09/2009	<u>16</u>	RESPONSE to Motion by USA as to Barry Goldman re <u>14</u> MOTION to Change Venue (Hurd, Marcia) (Entered: 02/09/2009)
02/13/2009	<u>17</u>	Second MOTION to Continue <i>Trial</i> by Barry Goldman. (Attachments: # <u>1</u> Text of Proposed Order) (Merchant, David) (Entered: 02/13/2009)
02/18/2009		Terminate past Deadlines as to Barry Goldman for file cleanup (plea agmt and reply brief) (CAA, ) (Entered: 02/18/2009)
02/18/2009	<u>18</u>	NOTICE of Intent to Introduce Self Authenticating Documents Pursuant to Rule 902(11) by USA as to Barry Goldman (Hurd, Marcia) (Entered: 02/18/2009)
02/23/2009	<u>19</u>	TEXT ORDER granting <u>13</u> Motion for Leave to File Out of Time as to Barry Goldman. Signed by Judge Richard F. Cebull on 2/23/2009. (EMA) (Entered: 02/23/2009)
02/23/2009	<u>20</u>	ORDER TO CONTINUE - Ends of Justice as to Barry Goldman, Time excluded from 3/9/09 until 6/22/09. SCHEDULING ORDER: Defendant's Reply Brief in support of motion to change venue is due by 3/3/09. Any Motion for COP with Plea Agreement due by 6/1/2009. Jury Instructions, Trial Briefs and Notebooks due by 6/15/09. Pretrial Conference set for 6/22/2009 08:00 AM in Chambers. Jury Trial reset for 6/22/2009 09:00 AM in Billings, MT before Judge Richard F. Cebull. <u>17</u> Second MOTION to Continue Trial filed by Defendant Granted. Signed by Judge Richard F. Cebull on 2/23/2009. (EMA) (Entered: 02/23/2009)
03/04/2009	<u>21</u>	REPLY TO RESPONSE to Motion by Barry Goldman re <u>14</u> MOTION to Change Venue (Merchant, David) (Entered: 03/04/2009)
03/30/2009	<u>22</u>	ORDER granting <u>14</u> Motion for Change of Venue as to Barry Goldman. Signed by Judge Richard F. Cebull on 3/30/2009. (EMA) (Entered: 03/30/2009)
03/31/2009	<u>23</u>	MOTION to Stay <i>March 30, 2009 Order</i> by USA as to Barry Goldman. (Attachments: # <u>1</u> Text of Proposed Order) (Hurd, Marcia) (Entered: 03/31/2009)

04/01/2009	<u>24</u>	Supplement re <u>23</u> MOTION to Stay <i>March 30, 2009 Order</i> (Hurd, Marcia) (Entered: 04/01/2009)
04/03/2009	<u>25</u>	MOTION for Leave to File <i>Motion for Reconsideration</i> by USA as to Barry Goldman. (Hurd, Marcia) (Entered: 04/03/2009)
04/03/2009	<u>26</u>	ORDER GRANTING <u>23</u> Motion to Stay as to Barry Goldman (1). Signed by Judge Richard F. Cebull on 4/3/2009. (AMC, ) (Entered: 04/03/2009)
04/09/2009	<u>27</u>	AMENDED ORDER as to Barry Goldman re <u>26</u> Order on Motion to Stay. Signed by Judge Richard F. Cebull on 4/9/2009. (AMC, ) (Entered: 04/09/2009)
04/24/2009	<u>28</u>	ORDER DENYING <u>25</u> Motion for Leave to File as to Barry Goldman (1). IT IS HEREBY ORDERED that the government's Motion for Leave to File Motion for Reconsideration is DENIED. The stay in this case is no longer in place and the Clerk of Court is directed to transfer this file to New Jersey. Signed by Judge Richard F. Cebull on 4/24/2009. (AMC, ) (Entered: 04/24/2009)
04/24/2009		CASE TRANSFERED (Rule 21) to New Jersey as to Barry Goldman. (Certified copy of the order and formal transfer letter mailed to the District of New Jersey) (AMC, ) (Entered: 04/24/2009)
05/12/2009	<u>29</u>	USCA ORDER- PLEASE READ ORDER FOR SPECIFICS as to Barry Goldman. (Notified RFC Chambers of the order) (AMC, ) (Entered: 05/12/2009)
05/20/2009	<u>30</u>	USCA ORDER- PLEASE READ ORDER FOR SPECIFICS as to Barry Goldman. (AMC, ) (Entered: 05/20/2009)
05/26/2009	<u>31</u>	USCA ORDER-READ ORDER FOR SPECIFICS as to Barry Goldman. (Notified RFC Chambers) (AMC, ) (Entered: 05/26/2009)
05/27/2009	<u>32</u>	Unopposed MOTION to Dismiss <i>Indictment</i> by USA as to Barry Goldman. (Attachments: # <u>1</u> Text of Proposed Order) (Hurd, Marcia) (Entered: 05/27/2009)
05/27/2009	<u>33</u>	ORDER GRANTING <u>32</u> Motion to Dismiss Without Prejudice as to Barry Goldman (1). Signed by Judge Richard F. Cebull on 5/27/2009. (AMC, ) (Entered: 05/27/2009)
06/03/2009	<u>34</u>	ACKNOWLEDGMENT OF RECEIPT of Transfer Letter sent to District of New Jersey as to Barry Goldman. (CAA, ) (Entered: 06/03/2009)

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